

HOUSE No. 2878

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen and others for legislation to promote used oil recycling through the establishment of a used oil transaction account to be administered by the Department of Revenue. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PETITION OF:

Douglas W. Petersen
J. James Marzilli, Jr.

Michael E. Festa
Anthony J. Verga

In the Year Two Thousand and Five.

AN ACT RELATIVE TO USED OIL RECYCLING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 21 of the General Laws is hereby amended by striking
2 out section 52A and inserting in place thereof the following
3 section:—

4 Section 52A. As used in this section, the following words shall,
5 unless the context requires otherwise, have the following mean-
6 ings:—

7 (1) Definitions.

8 “Automotive oil”, any oil, which has been refined from crude
9 or synthetic oil, that is sold in packages or containers containing
10 less than fifty-five (55) gallons and classified for use in an
11 internal combustion engine, crankcase, transmission, gear box, or
12 differential, including that for an automobile, bus, truck, boat,
13 lawnmower, or household power equipment.

14 “Collection center” or “Used oil collection center”, a location
15 or facility that collects used oil pursuant to this section.

16 “Department”, the Department of Environmental Protection.

17 “First time seller”, the first commercial entity to deliver, trans-
18 port, or sell automotive oil to any wholesaler, distributor, or
19 retailer in Massachusetts.

20 “Fund”, the Used Oil Recycling Fund created by this section.

21 “Marina”, any entity whose primary business involves ser-
22 vicing powered watercraft or selling marine equipment and sup-
23 plies, including automotive oil intended for use in boats.

24 “On-site installer”, any business conducting on-site automotive
25 oil changes for individuals, including, but not limited to, quick oil
26 change centers, service stations, and automotive service establish-
27 ments.

28 “Recycle”, reclaiming, reprocessing, re-refining, or otherwise
29 preparing used oil so that it may be burned for energy recovery or
30 reused as a petroleum product in accordance with state and federal
31 regulations. Recycle does not include burning for energy recovery
32 in space heaters. This definition is not intended to amend or
33 supersede the definition of recycling in 310 CMR 16.00.

34 “Recycling incentive payment”, the amount of money paid by
35 the Department of Revenue from the Transaction Account to used
36 oil collection centers for used oil that is recycled off the site of a
37 used oil collection center. The amount of the recycling incentive
38 payment shall be as follows:

39 (a) for used oil collection centers that are not on-site installers
40 or marinas, five (5) cents per quart of used oil recycled off-site.
41 The Department may adjust this amount to ensure the solvency of
42 the Fund.

43 (b) for used oil collection centers that are on-site installers or
44 marinas, an amount not to exceed five (5) cents per quart of the
45 used oil recycled off-site. The amount is to be determined by the
46 Department.

47 “Retailer”, a business, other than an on-site installer or a
48 marina, that sells automotive oil.

49 “Transaction Account”, the Used Oil Transaction Account cre-
50 ated by this section.

51 “Used oil”, any automotive oil which becomes unsuitable for
52 its original purpose due to loss of original properties or presence
53 of impurities.

54 (2) Used Oil Transaction Account.

55 (a) There shall be established a Used Oil Transaction Account
56 administered by the Department of Revenue.

57 (i) The first time seller to sell automotive oil in Massachusetts
58 shall pay into the Transaction Account five (5) cents per quart of
59 automotive oil sold in Massachusetts.

60 (ii) Payments by first time sellers of automotive oil into the
61 Transaction Account shall begin six months after the effective
62 date of this section, and shall occur monthly thereafter.

63 (iii) The Department of Revenue shall make recycling incentive
64 payments to collection centers from the Transaction Account
65 beginning six (6) months after payments by first time sellers into
66 the Transaction Account, and thereafter on a quarterly basis.

67 (iv) Collection centers may present claims to the Department of
68 Revenue for reimbursement of the costs associated with the dis-
69 posal of contaminated oil. Such claims shall be paid by the
70 Department of Revenue from the Transaction Account, subject to
71 the approval of the Department.

72 (v) The Department of Revenue shall maintain a balance in the
73 Transaction Account in an amount equal to three (3) times the
74 monthly average of the first six (6) months of payments made
75 from the Transaction Account to collection centers.

76 (3) Used Oil Recycling Fund.

77 (a) There shall be established a Used Oil Recycling Fund
78 administered by the Department of Revenue.

79 (i) Any amounts in excess of the Transaction Account balance
80 shall be transferred from the Transaction Account to the Fund by
81 the Department of Revenue. Such transfers shall commence six
82 (6) months after payments by first time sellers into the Transac-
83 tion Account, and shall occur quarterly thereafter, following pay-
84 ment of recycling incentive payments to collection centers.

85 (ii) Any fines or penalties collected for violations of this
86 section shall be credited to the Fund.

87 (b) Amounts deposited in the Fund shall be used for the
88 following purposes:

89 (i) grants, loans, or other financial assistance to a city, town,
90 county or other public or private entity pursuant to subsection 5;

91 (ii) public education programs concerning the proper handling,
92 recycling, and management of used oil, including maintaining the
93 toll-free telephone number described in subsection 5;

94 (iii) signs required pursuant to subsection 6;
95 (iv) used oil disposal, pursuant to subsection 7(e); or
96 (v) payment of costs incurred by the Department and the
97 Department of Revenue for the administration of this section.

98 (4) Powers and duties of the Department of Revenue.

99 (a) The Department of Revenue shall be responsible for admin-
100 istering the Transaction Account and the Fund. Administration
101 shall include collecting five (5) cents per quart payment from
102 first-time sellers, transferring monies from the Transaction
103 Account to the Fund, paying recycling incentive payments to col-
104 lection centers, and paying for administrative expenses incurred
105 under this section.

106 (b) Within six (6) months of the effective date of this section,
107 the Department of Revenue shall establish procedures or require-
108 ments for the proper administration of the Transaction Account
109 and the Fund and to otherwise carry out its duties under this
110 section.

111 (c) The Department of Revenue shall ensure the propriety of
112 claims made by collection centers for recycling incentive pay-
113 ments, and may promulgate regulations, in consultation with the
114 Department, to require collection centers to maintain records of
115 used oil collected and recycled, to prepare for the auditing of such
116 records, and to make other provisions as necessary to ensure the
117 propriety of such claims.

118 (d) The Department of Revenue shall supply the Department
119 with information necessary for the report required pursuant to
120 subsection 5(a)(viii).

121 (5) Powers and duties of the Department of Environmental Pro-
122 tection.

123 (a) Subject to appropriation from the Fund, the Department
124 shall:

125 (i) award grants, loans, or other financial assistance to cities,
126 towns, counties, or other public or private entities for the estab-
127 lishment of used oil collection centers at publicly or privately
128 owned locations, including, but not limited to, fire stations, police
129 barracks, public works and county garages, solid waste manage-
130 ment facilities, marinas, and docks;

131 (ii) award grants, loans, or other financial assistance to cities,
132 towns, counties, or other public or private entities that offer curb-

133 side collection of used oil from households. The reasonable costs
134 of collection containers and tanks, truck retro-fitting, and similar
135 costs associated with the curbside collection of used oil shall be
136 eligible for reimbursement from the Fund;

137 (iii) Provide technical assistance to used oil collection centers
138 or other public or private entities as to the proper handling, recy-
139 cling, or management of used oil;

140 (iv) Establish and maintain a toll-free telephone number to pro-
141 vide information about the proper handling, recycling and man-
142 agement of used oil, and about the locations and operating hours
143 of used oil collection centers and other used oil collection pro-
144 grams within Massachusetts;

145 (v) Develop public education programs concerning the proper
146 handling, recycling, and management of used oil;

147 (vi) Develop and provide signs to businesses for the collection
148 of used oil pursuant to subsection 6;

149 (vii) At least once every other year beginning three (3) years
150 after the effective date of this section submit a report to the clerks
151 of the House of Representatives and the Senate, the Joint Com-
152 mittee on Natural Resources and Agriculture, the House Ways and
153 Means Committee, and the Senate Ways and Means Committee.
154 The report shall include:

155 (A) the total amount of payments made into the Transaction
156 Account;

157 (B) the total amounts expended from the Transaction Account
158 and the Fund;

159 (C) the number of gallons of used oil collected by collection
160 centers;

161 (D) costs incurred by collection centers;

162 (E) an evaluation of the effectiveness of recycling incentive
163 payments as a financial incentive for collection centers and indi-
164 viduals.

165 (b) The Department shall promulgate regulations to implement
166 the following responsibilities within six (6) months of the effec-
167 tive date of this section:

168 (i) establish criteria for awarding grants, loans, and other finan-
169 cial assistance pursuant to this subsection;

170 (ii) establish the amount of the recycling incentive payments
171 that can be claimed by businesses and government entities col-
172 lecting used oil; and

173 (iii) establish procedures for the authorization of collection cen-
174 ters and standards for their proper management and operation,
175 including provisions for the transfer of collection responsibility
176 under subsection 6.

177 (6) Requirements for Retailers, On-site Installers, Public Enti-
178 ties, and Marinas.

179 (a) Retailers selling at least two hundred (200) gallons of auto-
180 motive oil annually, onsite installers, and marinas shall comply
181 with the requirements for used oil collection centers set forth in
182 subsection 7.

183 (i) Retailers selling at least two hundred (200) gallons of auto-
184 motive oil annually and on-site installers may contract their col-
185 lection responsibility to another used oil collection center within a
186 reasonable distance. The distance shall be established by the
187 Department.

188 (ii) Marinas may contract their collection responsibility to
189 another marina that is a used oil collection center within a reason-
190 able distance. The distance shall be established by the Depart-
191 ment.

192 (b) Retailers selling less than two hundred (200) gallons of
193 automotive oil annually and public entities are not required to col-
194 lect used oil from individuals. The retailers and public entities that
195 choose to collect used oil shall comply with the requirements for
196 used oil collection centers in subsection 7.

197 (c) Retailers selling less than two hundred (200) gallons of
198 automotive oil annually that choose not to collect used oil, as well
199 as those businesses contracting their collection responsibility pur-
200 suant to subsection (6)(a)(i) and (6)(a)(ii), shall post signs in
201 prominent locations indicating where used oil can be returned.

202 (d) Any other entity that collects used oil shall comply with
203 requirements for used oil collection centers.

204 (7) Used Oil Collection Centers.

205 (a) Used oil collection centers, except for marinas, shall accept
206 used oil from individuals in quantities not to exceed five (5) gal-
207 lons, per individual, per day, at no charge.

208 (b) A used oil collection center that is a marina shall accept
209 used oil, from individuals that use that marina, in quantities not to
210 exceed five (5) gallons, per individual, per day, at no charge.

211 (c) Used oil collection centers shall:

212 (i) Comply with standards required by the Department and the
213 Department of Revenue.

214 (ii) Post signs in prominent locations.

215 (iii) Maintain records of the amount of used oil collected and
216 recycled.

217 (iv) Upon request, provide information concerning the collec-
218 tion of used oil to the Department and the Department of Rev-
219 enue.

220 (d) All used oil collection centers may, on a quarterly basis,
221 submit claims to the Department of Revenue for recycling incen-
222 tive payments.

223 (i) A used oil collection center that is a retailer shall pay each
224 individual five (5) cents per quart upon the return of used oil. The
225 retailer shall provide such a payment regardless of whether the
226 retailer claims recycling incentive payments from the Transaction
227 Account. Nothing in this section prohibits any person from
228 donating used oil to a collection center.

229 (ii) A used oil collection center that is an on-site installer,
230 marina, or public entity that submits claims for recycling incen-
231 tive payments shall pay individuals five (5) cents per quart upon
232 the return of used oil. Nothing in this section prohibits any person
233 from donating used oil to a collection center.

234 (e) Not more than once per year, collection centers may submit
235 claims to the Department for reimbursement of costs, not to
236 exceed five thousand (\$5,000) dollars, associated with the dis-
237 posal of used oil that is contaminated with substances that render
238 it unrecyclable, provided that:

239 (i) The owner, operator, or lessor of the used oil collection
240 center or an employee of the owner, operator, or lessor did not
241 contaminate the used oil collected with any substance that made
242 the used oil unsuitable for recycling;

243 (ii) The owner, operator, or lessor of the collection center, or an
244 employee of the owner, operator, or lessor, did not accept used oil
245 that the owner, operator, or lessor knows, or should have known,
246 contains substances that made the oil unsuitable for recycling.

247 For purposes of this section, the owner, operator, or lessor of a
248 used oil collection center may presume that a quantity of less than
249 five (5) gallons used oil accepted at any one time from any indi-
250 vidual does not contain a substance that renders it unrecyclable,
251 provided that the owner or operator acts in good faith, and pro-
252 vided that the used oil collection center is in compliance with
253 requirements for collection centers.

254 (iii) Total expenditures for the reimbursement of costs may be
255 limited by the Department based on gross revenues of the Fund.

256 (8) Penalties.

257 Any person who violates any provision of subsection 7(a), (b),
258 or (d) shall be liable for a fine not to exceed one hundred (\$100)
259 dollars per quart of used oil that is the subject of the violation.

260 Any person who violates any provision of subsection 7(c) or
261 any regulation adopted under authority granted by this section
262 shall be liable for a fine not to exceed two hundred fifty (\$250)
263 dollars per violation.

264 Any penalties or fines imposed on collection centers for viola-
265 tions of subsection 7(a), (b), (c), or (d) shall be deposited into the
266 Fund.

267 Local boards of health, the Department, and the Department of
268 Revenue may enforce this section, may impose civil administra-
269 tive penalties or fines, and may report violations to the Office of
270 the Attorney General.